STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

[Seal]
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[Address Omitted In Printing]

July 22, 1997

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Re: ***Peter v. Carlson, et al.***

Dear Counsel:

Because of questions raised by counsel for the school districts, we are writing to clarify the State's position on its interpretation of Rule 3525.1150 in light of the *Agostini* case.

The position that we have articulated – that the State will not enforce the Rule to the extent it prohibits special

education and related services at religious schools – refers specifically to subpart 2 of the Rule. That subpart refers to the *location* of special education and related services and currently limits those services to "neutral sites," which include nonsectarian private schools. Because of *Agostini*, the State will no longer enforce the Rule as limited to neutral sites. In effect, the State will be reading the first sentence of the last paragraph of subpart 2 out of the Rule.

Subpart 3, paragraph A, of Rule 3525.1150, which is the subject of counsel's question, deals not with the location of the services, but rather with limits on the *services* that may be provided to any private school student. These limits apply to students at all private schools – sectarian and nonsectarian – and are unaffected by *Agostini* and the subsequent change of policy. Whether a school district is providing services consistent with this subpart is a matter that would be reviewed on a case-by-case basis through the IDEA hearing, monitoring or complaint process, or other audit process.

We hope that this clarifies the State's position on the matter.

Yours very truly,

/s/ Steven Liss
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RLK/sls

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Joan Peter, Sarah Peter, a minor, by and through her parent and natural guardian Joan Peter; Krista Westendorp, a minor, by and through his parents and natural guardians Krista Westendorp and Douglas Westendorp; and Choice In Education Foundation, Inc.,

Plaintiffs,

vs.

Robert Wedl, Commissioner, Minnesota Department of Children, Families and Learning; Arne H. Carlson, Governor, State of Minnesota; Independent School District No. 877 (Buffalo, Minnesota); and Independent School District No. 273 (Edina, Minnesota),

Defendants.

Civil File No. 4-96-642 (DSD/JMM

The Honorable Judge Doty

STIPULATION

Come now the Plaintiffs, by counsel Michael Stokes Paulsen, Daniel L. Bowles, Daniel T. Kadlec, and C. Erik Hawes and defendants Robert Wedl, Commissioner, and Arne H. Carlson, Governor, by counsel Steven B. Liss and stipulate and agree as follows:

1. The parties entered a Stipulation on July 31, 1997, in this matter.

2. Effective October 13, 1997, the State Board of Education amended Minnesota Rule 3525.1150, subpart 2, by striking the sentence: "Special education services provided indirectly or directly to the pupil must be provided at a neutral site that is consistent with Minnesota Statutes, section 123.932, subdivision 9."

3. Pursuant to paragraph 6 of the July 31, 1997 Stipulation entered by the parties and the Court's Order of August 4, 1997, the parties agree that claims against the State Defendants, other than the claim for attorneys' fees, are moot and the claims should be dismissed.

4. A joint proposed Order is attached, which may be entered without notice to the parties.

Dated: September 3, 1998

Respectfully submitted

/s/ Michael Stokes Paulsen
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Dated: 9-8-98

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